

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3339 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

DILIPKUMAR S TRIVEDI

Versus

DISTRICT DEVELOPMENT OFFICER

Appearance:

MRS KETTY A MEHTA for Petitioner
MR HS MUNSHAW for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 31/08/2000

ORAL JUDGEMENT

1. Heard the learned counsel for the parties and perused the special civil application and reply filed by the respondent No.1.

2. The order impugned in this special civil application is contrary to the statements which were made by the counsel for the respondents in the earlier petition filed by the petitioner being special civil

application No.2170 of 1980, decided on 27th November, 1980. It is not in dispute that the petitioner has been appointed on the post of Computer in the year 1966 and he was not given all the benefits of continuity of service on this post which includes the seniority and right of consideration for promotion etc.. The petitioner filed special civil application No.2170/80 in this Court.

3. In the earlier petition, the counsel who was appearing for the respondents made a very categorical statement that the petitioner shall be given the benefit of continuity of service right from the date of his initial appointment as Computer. Even if it is taken that the petitioner was not regularly appointed but once this statement has been made and relying on this statement, the earlier petition has been withdrawn by the petitioner, it is binding upon the respondent and they cannot back out therefrom. In reply to the special civil application, it is stated that the petitioner has been given regular appointment in the year 1972 and from that date he is entitled to seniority etc.. This is contrary to the statement made by the counsel for the respondents in the earlier petition before this Court. The respondents cannot take different stand now in the matter.

4. In the result, this petition succeeds and the same is allowed and the order dated 25th March, 1988, annexure 'E' at page No.25 of this petition is quashed and set aside and it is hereby declared that the petitioner shall be entitled for the benefits i.e. of seniority and right of consideration for promotion etc. by taking his appointment on the post of Computer from 29th June, 1966. Rule is made absolute accordingly.

zgs/-